

Management Board minutes

Monday 2 November 2015

Members and other attendees present

Ailsa Beaton	Non-executive Director
Louise Byers	Head of Good Practice
Christopher Graham	Information Commissioner (chair)
David Smith	Deputy Commissioner Data Protection
Ian Watmore	Non-executive Director
Nicola Wood	Non-executive Director
Peter Bloomfield	Senior Corporate Governance Manager (secretariat)

1. Introductions and apologies

- 1.1. There were apologies from Simon Entwisle, Deputy Commissioner and Deputy Chief Executive Officer, who was unable to attend the meeting.

2. Declaration of interests

- 2.1. There were no interests declared.

3. Matters arising from the previous meeting

- 3.1. The minutes of the meeting of 27 July had been agreed by correspondence and were presented for information. Action points were for clearance if possible.
- 3.2. Christopher Graham confirmed that Ailsa Beaton would be chairing the Remuneration Committee which was meeting next week.
- 3.3. The action point for Simon Entwisle to consider the ICO's automated response to self reported breaches remained outstanding. It was agreed that Simon Entwisle would discuss the matter with Nicola Wood outside the meeting.

Action point 1: Simon Entwisle and Nicola Wood to discuss the adequacy of the automated response to self reported breaches.

- 3.4. It was confirmed that the Board's expectation was that action points and decisions shown on the decision log would be cleared to schedule.

Action point 2: Christopher Graham to remind Senior Management Team members of the need to ensure that action points and decisions are cleared to agreed deadlines.

4. Commissioner's forward look

- 4.1. Christopher Graham provided an update on the major issues affecting the ICO. In particular he provided feedback on the International Conference of Data Protection and Privacy Commissioners held recently in Amsterdam. In addition the new Minister with responsibility for Data Protection Policy and sponsorship of the ICO at the DCMS would be visiting the Wilmslow office shortly.

- 4.2. The role of the ICO in providing advice to both members of the public and other data controllers following IT security breaches was discussed. The priority was to be able to push the public towards the expert advice they needed. At the same time the ICO also needed a clear idea as to what information it could usefully provide data controllers about any lessons learnt from particular breaches and subsequent investigations.

Action point 3: Christopher Graham and Simon Entwisle to discuss the resources and structure of the Enforcement Team in light of the increasing number of breaches.

- 4.3. The process to recruit the next Commissioner was expected to start shortly. The ICO would publicise the process and members of the Board were similarly encouraged to do so.

Action point 4: Christopher Graham to check with the DCMS on the nature of the recruitment pack and on the selection panel membership.

- 4.4. The risk register was also discussed as part of this agenda item. Whilst it had been updated to reflect recent changes, for example in sponsorship department, it was recognised that the risks were dated and needed reviewing. The register would be brought to the Senior Management Team shortly for review. The Board suggested that it would

be useful if the Senior Management Team could consider inclusion of a specific reputational risk for the ICO.

- 4.5. The risk of further reductions in grant in aid, for freedom of information work, was noted, along with the need to continue work on researching possible changes to the data protection registration fee income.

5. Future Management Board arrangements

- 5.1. The Board was asked to confirm its composition and working arrangements following the recent changes to the ICO's management structure. It was agreed that the Board would continue with a membership of the three current non-executive directors, Christopher Graham and Simon Entwisle. Changes to its terms of reference would reflect this and the setting up of the Senior Management Team, but would otherwise remain the same.

Action point 5: Peter Bloomfield to amend the Board terms of reference to reflect the recent changes.

- 5.2. Senior Management Team members would be invited to attend Board meetings for matters related to their areas of work.

6. The handling of allegations of criminal offences against ICO staff

- 6.1. A procedure had been drafted detailing the steps the office would take if allegations were made against ICO staff of criminal activity under the Freedom of Information Act and the Data Protection Act. There was a need to ensure transparency of process as the ICO was the prosecuting authority for such offences and would, in effect, be making decisions about whether to prosecute its own staff. There was therefore a need to ensure that the person against whom allegations were made was not in a position to influence decisions.
- 6.2. The role of the chair of the Audit Committee was discussed. It was clarified that their role was not to investigate, or to appoint the investigating officer; rather it was to support the investigating officer if required.
- 6.3. There was also discussion as to what the test was when deciding if there was evidence of a crime and the matter needed referring to the Police.
- 6.4. The procedure was confirmed.

7. Notification fee research

- 7.1. Louise Byers updated the Board on research into the proportion of data controllers in particular sectors which paid the notification fee, to help identify those sectors where compliance with the duty to notify was a problem and steps could be taken to improve compliance. Preliminary results would be available towards the end of the month.
- 7.2. The research might also help inform any decisions as to targeting notification amounts on information risk (not just the size and turnover of organisations) and the need to reflect the new EU DP regulation when implemented in any fee collection process.
- 7.3. The Board considered it important to have a clear idea as to the total number of data controllers which should be notified with the Commissioner.

8. Draft ICO Plan 2016-2019

- 8.1. The draft ICO Plan 2016-2019 was presented for information. It was based on the current 2015-2018 plan, updated to reflect changes in on-going projects and new priorities. It was a work in progress which would be presented to the DCMS along with a draft budget for 2016/17 before the end of the calendar year.
- 8.2. In respect of the main customer service target (1.1) it was asked whether or not the ICO could do better. The proposed new target was as for this year.

9. Performance against the ICO Plan 2015-2018

- 9.1. Performance against the current ICO plan is reported quarterly, and the report up to the end of September was presented for information.
- 9.2. The Board questioned why the ICO had not agreed any voluntary improvement plans (action 2.3). It was explained that other options were possibly more effective in practice. A decision would be taken as to whether the option was included in the ICO Plan 2016-2019.
- 9.3. It was noted that whilst the ICO was executing some search warrants in the local area, this did not mean that the ICO was restricting in any way its operations geographically.

10. Finances

- 10.1. Louise Byers reported on ICO finances up to the end of September. Notification fee income was within 1% of expectations, and indicative figures for October indicated that this was the case still. The possibility of an underspend remained.
- 10.2. The need for capital expenditure next year was raised. This year the capital budget had been high, reflecting a need to catch up on IT projects in particular. There might not be quite the same need for capital expenditure next year but much depended on decisions relating to IT strategy.
- 10.3. Ensuring recruitment did not fall behind vacancy levels had been a priority this year, to ensure teams were properly resourced to do their work. Recruitment had been helped by a rise in starting salaries but there were difficulties in recruiting in certain specialist posts.
- 10.4. It was noted that the new procurement management system had just gone live.
- 10.5. The challenge of recruiting a temporary Head of Finance was a concern.

Action point 6: Simon Entwisle to come to Audit Committee in December with details of the actions being taken to provide a temporary replacement for the Head of Finance.

11. Issues reports

Operations

- 11.1. The operations report was presented for discussion. The headline was that for the third quarter in a row input had exceeded output. The risk was that backlogs of casework could quickly arise in these circumstances.

Action point 7: Simon Entwisle and Christopher Graham to discuss the risk of backlogs and to report back to the January Board on mitigating actions.

Information rights

- 11.2. The information rights report was presented for information. David Smith drew attention to the trend in both the EU and UK courts towards upholding individual privacy rights and the impact of this on the ICO's work. New arrangements for ensuring that subject access cases are dealt with appropriately had been introduced and he had reached agreement with Simon Entwisle on a process for

reducing the risk that ICO policy may not fully reflect casework decisions.

Corporate Affairs

- 11.3. Similarly the Corporate Affairs report was presented for information. It was in a new format.

Organisational Development

- 11.4. Michael Collins, Head of Organisational Development, attended for this item. He advised that the 2015 pay rise would be paid to staff as part of their November salary, backdated to July. The increase met the government 1% cap.
- 11.5. The last staff survey had been over a year ago with the next survey being planned for 2016. The reason for this was that the ICO made use of the Civil Service survey and this was biennial. However the Board was concerned that ways of measuring staff engagement ought to be more frequent, especially as the last survey had been during a period of industrial action, and the next planned survey would be shortly after the next Commissioner would have been appointed.

Action point 8: Christopher Graham to consider the possibility of using pulse surveys to measure staff engagement more frequently than biennially and to report back to the Board.

- 11.6. ACAS were due to undertake a review of the processes around the decision to award pay rises to senior managers following a re-structure and how these decisions were communicated. They were not reviewing the actual decisions.
- 11.7. The Board noted a 4.5% non-attendance of ICO staff at training courses. The ICO was taking steps to ensure that where managers had committed staff to training that this commitment was followed through.
- 11.8. It was agreed that car parking would be discussed at the Remuneration Committee meeting next week.

12. Executive Team meetings

- 12.1. The minutes of Executive Team meetings, and the one Senior Management Team meeting, that had taken place since the last Board meeting, were presented for information.

13. Audit Committee

- 13.1. The minutes of the September Audit Committee meeting were presented for information.

14. Any other business

- 14.1. This meeting was David Smith's last management Board as he was retiring shortly from his role as Deputy Commissioner for Data Protection. Christopher Graham along with the other members of the Board thanked David for his work and dedication to the data protection community for many years.